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AN ORDINANCE TO ESTABLISH
A PROHIBITION AGAINST
CERTAIN FORMS OF
AGGRESSIVE SOLICITATION

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BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE
COUNTY OF LEE:

SECTION 1. LEGISLATIVE FINDINGS.

- (a) The Board finds that the increase in aggressive solicitation throughout the County has become extremely disturbing and disruptive to residents and businesses, and has contributed not only to the loss of access to and the enjoyment of public places, but also to an enhanced sense of fear, intimidation, and disorder.
- (b) Aggressive solicitation usually includes approaching or following pedestrians, repetitive soliciting despite refusals, and the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.
- (c) The Board further finds that the presence of individuals who solicit money from persons at or near banks, automated teller machines, or in public transportation vehicles is especially troublesome because of the enhanced fear of crime in those confined environments. Motorist also find themselves confronted by persons seeking money who, without permission, wash their automobile windows at traffic intersections, despite explicit indications by drivers not to do so. Such activity carries with it an implicit threat both to persons and property. People driving or parking on public streets and highways frequently find themselves faced with persons seeking money by offering to open car doors or locate parking spaces.
- (d) The Board is enacting this Ordinance pursuant to its police power as stated in North Carolina General Statute §153A-126 and the other provisions in Article 6 of Chapter 153A of the General Statutes of North Carolina. This law is timely and appropriate because state regulations are insufficient to address the aforementioned problems.
- (e) The law is not intended to limit any person from exercising their constitutional right to solicit funds, picket, protest, or engage in other constitutionally protected activity. Rather, its goal is to protect citizens from the fear and intimidation accompanying certain kinds of solicitation that have become an unwelcome and overwhelming presence in the County.

SECTION 2. DEFINITIONS.

For purposes of this Ordinance:

- (a) *Solicit* means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.
- (b) *Aggressive manner* means and includes:
 - (1) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;
 - (2) Following the person being solicited, if that conduct is: (i) intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
 - (3) Continuing to solicit within five (5) feet of the person being solicited after the person has made a negative response, if continuing the solicitation is: (i) intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
 - (4) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest shall not constitute obstruction of pedestrian or vehicular traffic;
 - (5) Intentionally or recklessly using obscene or abusive language or gestures: (i) intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation; or

- (6) Approaching the person being solicited in a manner that: (i) is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.
- (c) *Automated teller machine* means a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.
- (d) *Automated teller machine facility* means the area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers after regular banking hours.
- (e) *Bank* means any financial institution that is in the business of receiving, soliciting, or accepting money, or its equivalent on deposit as a business and includes but is not limited to state banks, national banks, savings and loan associations, savings banks, industrial banks, and credit unions.
- (f) *Check cashing business* means any person duly licensed by the regulatory banking authorities of the State of North Carolina to engage in the business of cashing checks, drafts or money orders for consideration pursuant to the provisions of the banking laws of this state.
- (g) *Public area* means an area to which the public or a substantial group of persons has access, and includes, but is not limited to alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.
- (h) *Board* means the Board of Commissioners for the County of Lee, one of the counties of the State of North Carolina.

SECTION 3. PROHIBITED ACTS.

It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

- (a) In an aggressive manner in a public area;
- (b) In any public transportation vehicle, or bus or a station or stop for such vehicles;

- (c) Within fifteen (15) feet of any entrance or exit of any bank or check cashing business or within fifteen (15) feet of any automated teller machine during the hours of operation of such bank, automated teller machine, or check cashing business without the consent of the owner or other person legally in possession of such facilities. Provided however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;
- (d) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; or
- (e) From any operator of a motor vehicle that is in traffic on a public street or highway, whether in the exchange for cleaning the vehicle's windows, or for blocking, occupying, or reserving a public parking space, or directing the occupant to a public parking space; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.

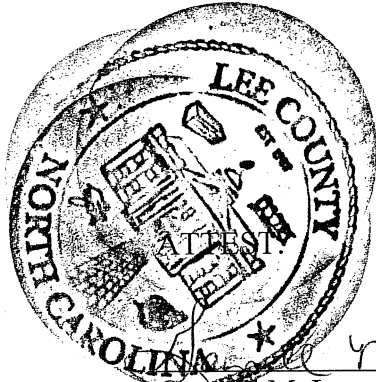
SECTION 4. PENALTIES.

A person violating this Ordinance shall be guilty of a Class 3 Misdemeanor and shall be fined not more than \$50.00.

SECTION 5. CONSTRUCTION AND SEVERABILITY.

- (a) Severability is intended throughout and within the provisions of the Ordinance. If any section, sentence, clause, or phrase of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, then such judgment shall in no way affect or impair the validity of the remaining portions of this Ordinance.
- (b) This Ordinance is not intended to create a result through enforcement that is absurd, impossible, or unreasonable. The Ordinance should be held inapplicable in any such cases where its application would be unconstitutional under the Constitution of the State of North Carolina or the Constitution of the United States of America.

Adopted this the 13th day of December 2004.



Gaynell M. Lee
Gaynell M. Lee, Clerk

LEE COUNTY

A handwritten signature in cursive script, appearing to read "Herbert A. Hincks", written over a horizontal line.

Herbert A. Hincks, Chairman
Lee County Board of Commissioners